

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CARFAGNO,

Plaintiff,

v.

SCHNITZER, et al.,

Defendants,

Case No. 1:08-cv-00912-SAS-JCF  
ECF Case

**NOTICE OF PLAINTIFF'S MOTION FOR CLASS CERTIFICATION**

PLEASE TAKE NOTICE that upon the attached Declaration of Beth A. Kaswan, sworn to July 31, 2008, the accompanying Memorandum of Law,<sup>1</sup> and all prior pleadings and proceedings herein, the undersigned will move this Court on a day and time to be determined by the Court for an order pursuant to Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure certifying for class treatment Plaintiff's claims seeking equitable relief for unjust enrichment on a "disgorgement" theory.

PLEASE TAKE FURTHER NOTICE that pursuant to the schedule set by the Court on July 21, 2008 [Dkt. No. 39], responses to this motion are due on August 29, 2008. Reply papers are due on September 19, 2008.

Dated: July 31, 2008  
New York, NY

Respectfully submitted,

s/  
\_\_\_\_\_  
Beth A. Kaswan (BK-0264)  
Judith S. Scolnick (JS-0872)  
SCOTT + SCOTT, LLP

<sup>1</sup> The Declaration of Beth A. Kaswan and the Memorandum of Law have been filed under seal pursuant to the April 15, 2008 Protective Order governing confidential materials in this action.

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*Counsel for Plaintiff John Carfagno*

**CERTIFICATE OF SERVICE**

I hereby certify that on July 31, 2008, a copy of the foregoing Notice of Plaintiff's for Class Certification was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

s/

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